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Board of Adjustment - Variance Staff Report

TO: BOARD OF ADJUSTMENT

FROM: JOSH ROGERS, PLANNER II *JR*
(480) 503-6589, JOSH.ROGERS@GILBERTAZ.GOV

THROUGH: CATHERINE LORBEER, AICP, PRINCIPAL PLANNER *chl*
(480) 503-6016, CATHERINE.LORBEER@GILBERTAZ.GOV

MEETING DATE: SEPTEMBER 4, 2019

SUBJECT: V19-04 MILLING MACHINERY INC: REQUEST FOR A DEVIATION FROM THE STRICT APPLICATION OF THE LAND DEVELOPMENT CODE REQUIREMENT SET FORTH IN CHAPTER 1 ZONING REGULATIONS, DIVISION 2 LAND USE DESIGNATIONS, ARTICLE 2.6 EMPLOYMENT DISTRICTS, SECTION 2.605.A SECURE VEHICLE ACCESS POINTS TO REDUCE THE DISTANCE FROM A SECURE VEHICLE ACCESS POINT FROM THE RIGHT-OF-WAY FROM 50 FEET TO 25 FEET. THE SUBJECT REAL PROPERTY IS LOCATED AT 1469 W. MELODY AVE. AND IS ZONED GENERAL INDUSTRIAL (GI).

STRATEGIC INITIATIVE: Economic Development

To allow for the construction of a contractor's and storage yard.

RECOMMENDED MOTION

Make the Findings of Fact and **Deny** V19-04 Milling Machinery Inc: a request to deviate from Section 2.605.A Secure Vehicle Access Points to reduce the distance from a secure vehicle access point from the right-of-way from 50 feet to 25 feet, on property located at 1469 W. Melody Ave. and zoned General Industrial (GI).

APPLICANT

Company: Arc One Associates
 Name: Joshua Oehler
 Address: 1427 N. 3rd St.
 Phoenix, AZ 85004
 Phone: 602-696-6500
 Email: josh@arconeassociates.com

OWNER

Company: CMWN LLC
 Name: N/A
 Address: 14520 E. Via De Arboles
 Chandler, AZ 85249
 Phone: 480-964-9041
 Email: dusty@millinc.com

BACKGROUND/DISCUSSION**History**

Date	Description
<i>March 3, 2005</i>	The Town Council adopted the Land Development Code (Ord. No. 1625), which changed the zoning from Agricultural (AG) to General Industrial (GI)
<i>January 11, 2007</i>	Design Review Board approved DR05-149 for a landscape contractor's office and outdoor storage facility.
<i>July 17, 2019</i>	The Zoning Hearing Officer considered V19-04 and referred the item to the Board of Adjustment.

Overview

The variance request under V19-04 is to reduce the required 50-foot setback to 25 feet from any secure gate to the right-of-way. The 2.2-acre property is an undeveloped infill lot located approximately a quarter-mile south of Baseline Road and east of McQueen Road. The applicant is proposing a contractor's/storage yard in which to safely store materials and fleet vehicles in the General Industrial (GI) zoning district. The applicant proposes to construct a perimeter block wall with two secured egress access points off of Pioneer St. to the east and one ingress point off of Melody Ave. to the north. There aren't any structures planned for the site at the present time.

The 50-foot access gate setback requirement in the Land Development Code (LDC) is designed to eliminate large vehicles and trailers, waiting for the access gates to open, from impeding traffic along a public right-of-way. The variance request is to reduce the setback to 25 feet at all three secured entrances mentioned above.

Surrounding Land Use & Zoning Designations:

	Existing Land Use Classification	Existing Zoning	Existing Use
North	General Industrial	General Industrial	Melody Ave, then Industrial
South	General Industrial	General Industrial	Industrial Use
East	General Industrial	General Industrial	Pioneer St, then Industrial Use
West	General Industrial	General Industrial	Industrial Use
Site	General Industrial	General Industrial	Industrial Use

Project Data Table

Site Development Regulations	Required per LDC	Proposed
Maximum Height (ft.)/Stories	N/A	N/A
Minimum Perimeter Landscape Setbacks (ft.)		
Front	25'	25'
Side (Street)	25'	25'
Side (Employment)	0' (When in an enclosed yard)	0'
Rear	0' (When in an enclosed yard)	0'
Minimum Distance from a Secure Access point to the right-of-way	50'	25' variance

FINDINGS

In order to approve a Variance, the Board of Adjustment is required to make all four findings per Section 5.503 of the LDC. The findings are listed here, along with the reasons why staff considers that the findings are or are not met in this case. These findings are:

A. There are special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, whereby the strict application of the zoning ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district;

Staff finds that special circumstances are not present.

The subject site is a little over two-acres, undeveloped, rectangular, and unencumbered by any significant factor relating to its surroundings.

Staff finds that the strict application of the zoning ordinance would not deprive the specific property of privileges enjoyed by similar property in the General Industrial zoning district.

The subject site is in one of the older industrial areas in the Town. As such, the majority of the properties in the immediate vicinity were developed before the Town of Gilbert updated the LDC in 2005 and feature secure access points directly on the property line because the prior code did not require a setback. However, staff notes that the only applicable property (1559 W. Melody) in the area to submit development plans after the LDC update did adhere to the 50' setback from the access gate to the right of way.

B. Such special circumstances were not created by the owner or applicants;

Staff finds that the special circumstances present are “self-imposed”.

Staff has not identified any special circumstances with the property that are out of the control of the applicant. The site is not constrained by size, shape, location, surroundings, nor any other factors that present a reasonable hinderance to the applicant's ability to utilize the site. The applicant is also choosing to utilize motorized sliding gates that open/close horizontal to the access points and extend into potentially useable storage space when opened. Staff notes gate design is at the discretion of the owner and an alternative design could eliminate that concern.

C. The variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located; and

Staff finds the variance would grant special privileges inconsistent with limitations on nearby or comparable properties.

As mentioned above, staff found the only property developed in this area after the LDC update was able to successfully implement the provision on their site (1559 W. Melody). Granting a variance for a standard that was required and implemented on the neighbors' site would constitute a grant of special privilege to the subject site inconsistent with the limitations upon other properties in the vicinity.

D. The variance will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or the public welfare in general.

Staff finds that the proposed variance will be detrimental to the enjoyment of adjacent properties, land uses and the greater community's welfare and safety.

The Town has the right-of-way to extend Melody Ave to connect to the light industrial complex to the east. If the Town decides it necessary to connect Melody Ave. to Hobson St. in the future, the approval of the variance would be detrimental to the area and would likely cause future backups along a significant industrial through street. However, the Town does not have any projects slated in the current budget to extend Melody Ave. east to Hobson St. On the other hand, Melody Ave currently dead ends into a cul-de-sac and the effect of granting the variance would be minimal at best. There isn't any reason to believe that a truck temporarily impeding the Melody Avenue right-of-way while the access gate is opened would lead to any significant back up to McQueen but a truck would temporarily impede traffic attempting to access any of the eight properties located on Pioneer St.

Pursuant to the above analysis, Staff finds that the variance request **does not** meet all of the four (4) findings required by Article 5.503 of the Land Development Code and ARS § 9-462.06.G.

PUBLIC NOTIFICATION AND INPUT

A notice of public hearing was published in a newspaper of general circulation in the Town, an official notice was posted in all the required public places within the Town and neighborhood notice was provided per the requirements of the Land Development Code Article 5.205.

Staff has received one comment from the public expressing concern for semi-trucks that have been witnessed utilizing the site, impeding the traffic attempting to access his business located on Pioneer Street. The member of the public also mentioned concerns regarding the design of the site that will be addressed during the Design Review process.

Zoning Hearing Officer - July 17, 2019 Variance Hearing

Approximately 5 members of the public attended the variance hearing but expressed overall indifference to the variance request. The draft meeting minutes are included in this report as an attachment. On July 17, 2019, the Zoning Hearing Officer determined that the application merited the review of the Board of Adjustment and referred the item.

PROPOSITION 207

An agreement to “Waive Claims for Diminution in Value” pursuant to A.R.S. § 12-1134 was signed by the landowners of the subject site, in conformance with Section 5.201 of the Town of Gilbert Land Development Code. This waiver is located in the case file.

STAFF RECOMMENDATION

Make the Findings of Fact and **Deny** V19-04 Milling Machinery Inc: a request to deviate from Section 2.605.A Secure Vehicle Access Points to reduce the distance from a secure vehicle access point from the right-of-way from 50 feet to 25 feet, on property located at 1469 W. Melody Ave. and zoned General Industrial (GI).

Should the Board of Adjustment be inclined to approve the variance request, the following motion is recommended:

Make the Findings of Fact and approve V19-04 Milling Machinery Inc: a request to deviate from Section 2.605.A Secure Vehicle Access Points to reduce the distance from a secure vehicle access point from the right-of-way from 50 feet to 25 feet, on property located at 1469 W. Melody Ave. and zoned General Industrial, subject to conditions.

1. The variance only modifies those standards specifically identified; all other standards of the Land Development Code must be met.

Respectfully submitted,

A handwritten signature in cursive script that reads "Joshua Rogers".

Josh Rogers
Planner II

Attachments and Enclosures:

- 1) Hearing Officer Findings of Fact (blank form)
- 2) Notice of Public Hearing
- 3) Aerial Photo
- 4) Site Plan
- 5) Applicant Narrative/Exhibits
- 6) July 17th Variance Hearing Draft Meeting Minutes

FINDINGS OF FACT FOR VARIANCE APPLICATIONS

CASE NUMBER: V19-04

**APPLICANT NAME: Arc One Associates
Joshua Oehler**

The Board of Adjustment, having heard all the evidence before it and having reviewed the file in the above application for a variance, hereby grants the variance application and makes the following findings:

There are special circumstances of the property, including its size, shape, topography, location or surroundings, whereby the strict application of the zoning ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district. Those special circumstances include the following:

The above special circumstances applicable to the property were not created by the owner or applicant and are more than mere personal inconvenience or financial hardship because:

The variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the zone and vicinity in which such property is located because:

The authorizing of the application will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or to the public welfare in general because:

The variance will not make any changes in the uses permitted in the zoning classification or zoning district, or make any changes in the terms of the zoning ordinance except adjustments authorized by ARS § 9-462.06.

Chairman – Board of Adjustment

Date

Notice of Public Hearing

VARIANCE HEARING DATE:

Wednesday, July 17, 2019* TIME: 2:30 PM

**LOCATION: Gilbert Municipal Center, Room 100
90 E. Civic Center Drive
Gilbert, Arizona 85296**

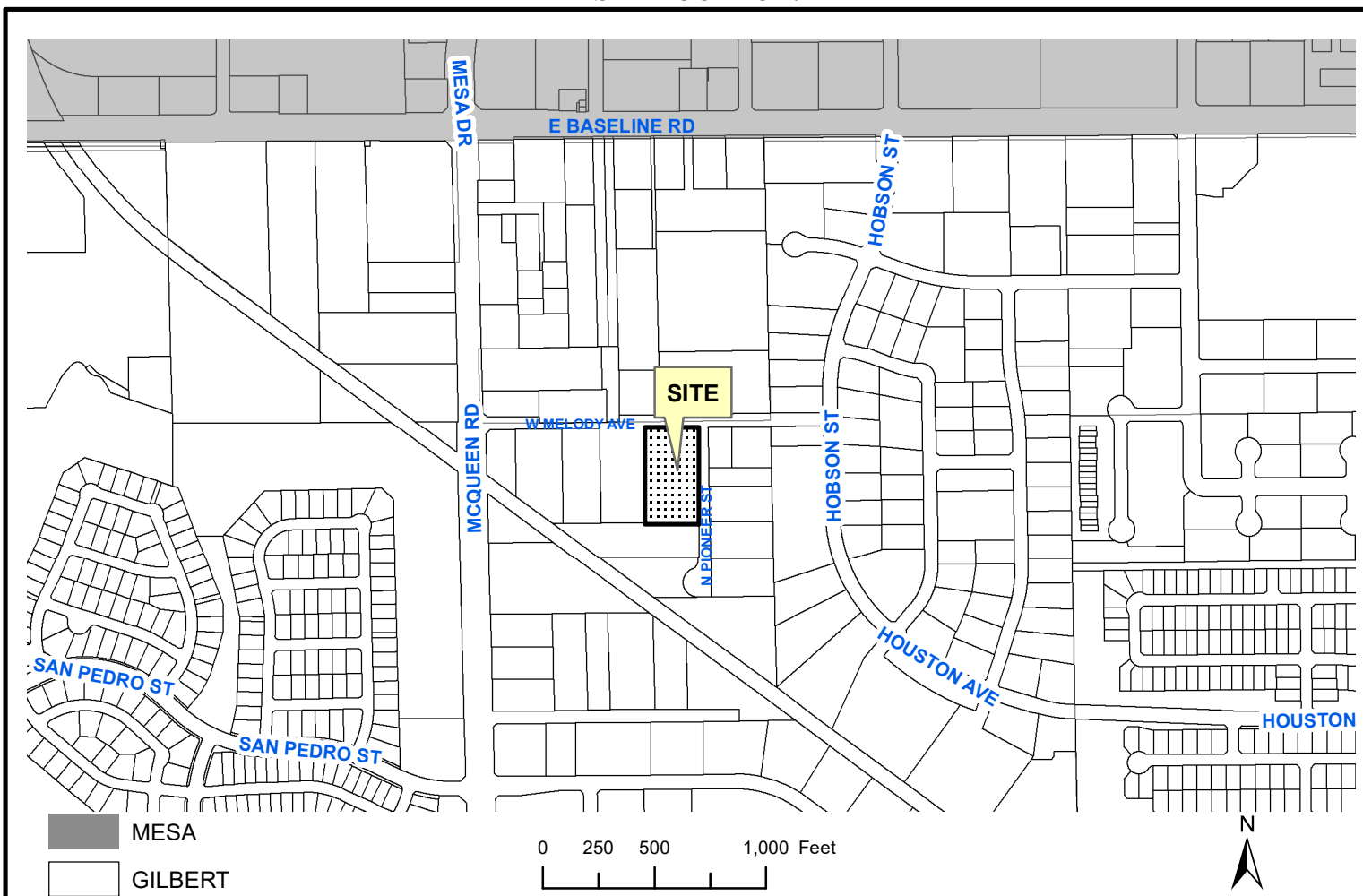
*** Call Planning Division to verify date and time:
(480) 503-6589**

* The application is available for public review at the Town of Gilbert Development Services Department Monday - Thursday 7 a.m. - 6 p.m.

REQUESTED ACTION:

V19-04 MILLING MACHINERY INC: Request for a deviation from the strict application of the Land Development Code requirement set forth in Chapter 1 Zoning Regulations, Division 2 Land Use Designations, Article 2.6 Employment Districts, Section 2.605.A Secure Vehicle Access Points to reduce the distance from a secure vehicle access point from the right-of-way from 50 feet to 25 feet. The subject real property is located at 1469 W. Melody Ave. and is zoned General Industrial (GI).

SITE LOCATION:



**APPLICANT: ARC One Associates
CONTACT: Joshua Oehler
ADDRESS: 1427 N. 3rd St, #100
Phoenix, AZ 85004**

**TELEPHONE: (602) 696-6500
E-MAIL: Josh@ARConassociates.com**

McQueen Rd.

W MELODY AVE

W MELODY AVE

W MELODY AVE

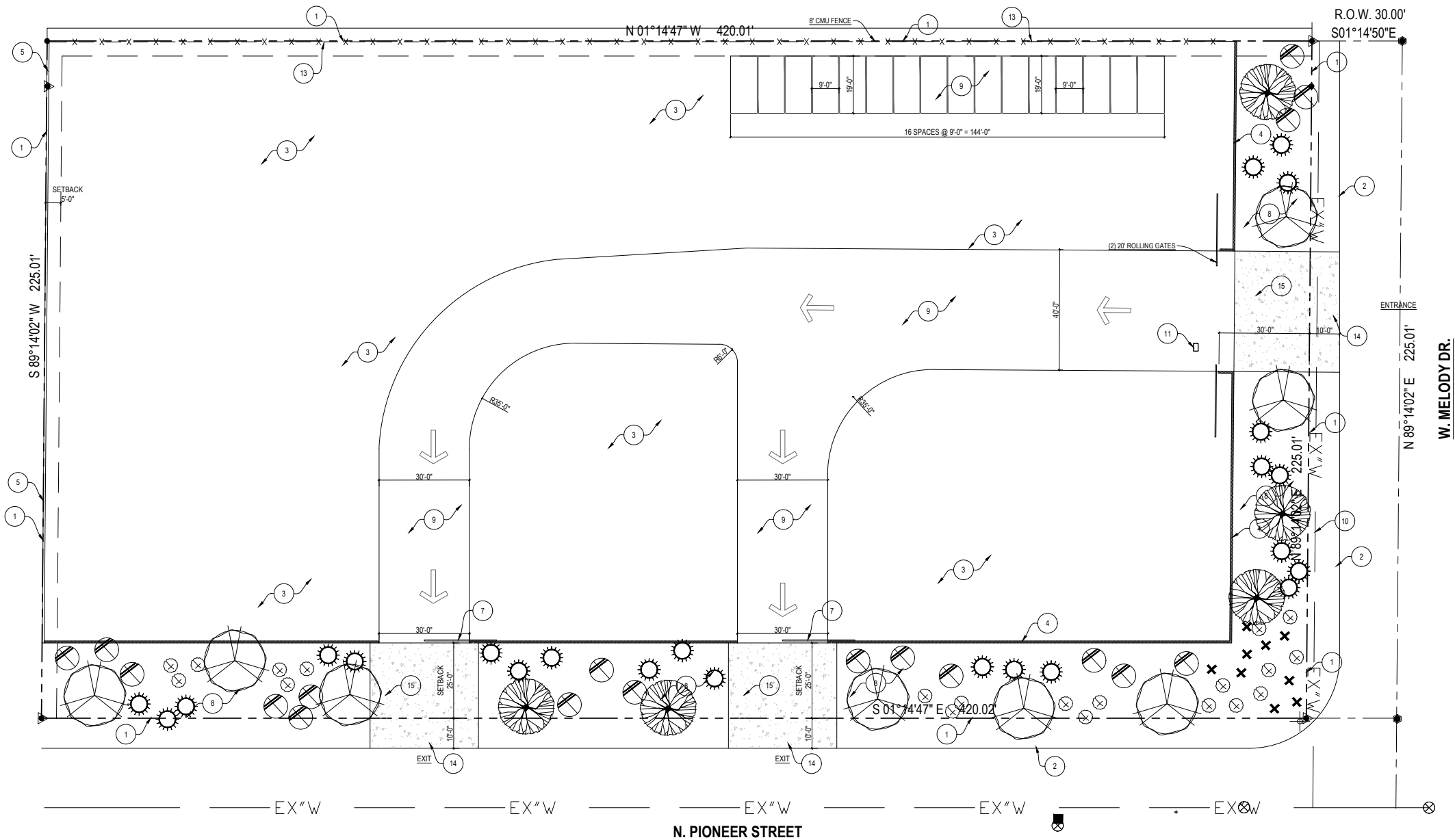
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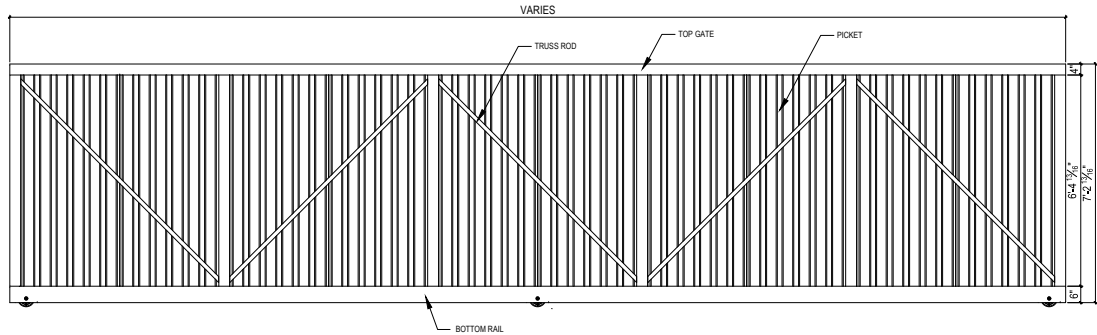
N PIONEER ST

SITE





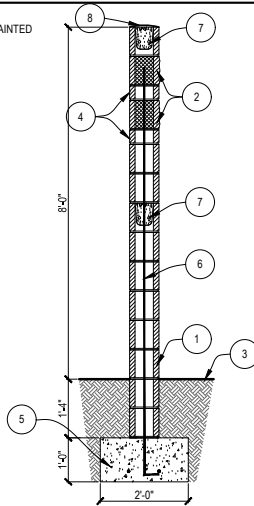
UTILITY NOTE:
LOCATION ON ALL UTILITIES SHOWN ON THESE PLANS ARE BASED ON INFORMATION SUPPLIED TO THE
ENGINEER BY THE APPROPRIATE UTILITY COMPANIES. ENGINEER DOES NOT GUARANTEE THAT ALL UTILITIES
ARE SHOWN OR THEIR LOCATIONS. IT IS THE RESPONSIBILITY OF THE CONTRACTOR OR OWNER TO CONTACT
BLUE STAKE AND ANY OTHER INVOLVED AGENCIES TO LOCATE ALL UTILITIES PRIOR TO CONSTRUCTION.



13 SLIDING GATE
N.T.S.

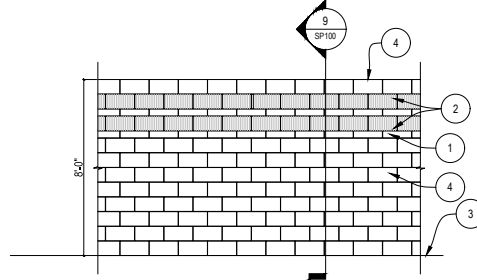
- 1 8"x8"x16 CMU WALL WITH BOND BEAM TOP COURSE PAINTED
- 2 8"x8"x16" SPLIT RIB CMU BLOCK PAINTED
- 3 GRADE LINE
- 4 4"x8"x16" CMU BLOCK PAINTED
- 5 2'-0"x12" CONTINUOUS CONCRETE FOOTING
- 6 2# 4 BARS CONT. WITH # 4 VERTICAL @ 4'-0" O.C.
- 7 BOND BEAM WITH 2 # 4 CONT.
- 8 MORTOR WASH CAP - SAME COLOR AS WALL

9 CMU IRON FENCE SECTION
1/2" = 1'-0"



- 1 8"x8"x16 CMU WALL WITH BOND BEAM TOP COURSE - PAINTED
- 2 8"x8"x16" SPLIT RIB CMU BLOCK PAINTED - PAINTED
- 3 GRADE LINE
- 4 8"x4"x16" CMU BLOCK - PAINTED

5 CMU SITE FENCE ELEVATION
1/4" = 1'-0"



2 site plan
1" = 20'-0"

- 1 PROPERTY LINE
- 2 EXISTING ASPHALT STREET
- 3 EXISTING DUST-PROOF LOT - DG COVERING
- 4 NEW 8'-0" HIGH CMU WALL
- 5 EXISTING 6'-0" HIGH CMU FENCE TO REMAIN
- 6 NOT USED
- 7 NEW 30'-0" METAL ROLLING GATE
- 8 NEW LANDSCAPE & RETENTION AREA - 2" DG GROUND COVER - SEE SCHEDULE FOR PLANTING
- 9 NEW 4" GRAVEL PARKING WITH 4" PAINTED STRIPING
- 10 EXISTING WATER LINE TO REMAIN
- 11 EXISTING WATER METER
- 12 NOT USED
- 13 EXISTING CHAIN LINK FENCE TO REMAIN
- 14 NEW DRIVEWAY
- 15 NEW 2" ASPHALT PAVING ON 6" ABC BASE

1 SITE PLAN KEYNOTES

Narrative:

This project is to develop a site for the storage of material for a Milling Machinery Inc. It is comprised of simply build an eight-foot CMU wall around the perimeter of the property to safe guard the materials and products they store on this property. It will have three electronically controlled gates for entry and exit, but no roof, windows or doors. There is no office on this site. Delivery vehicles will enter and exit through the gates.

Storage of product will be on the ground pallets There will be landscaping on the exterior of the CMU wall the full length of the property on North Pioneer Street and west on Melody Drive excluding the three driveway areas is also shown on the site plan.

The improvements to this property will greatly improve the appearance with a perimeter wall. The landscape will also be an enhancement to the current area.

We do not believe that there will be any noise issues raised by the daily activity on this property. This is a commercial lot that will be operating Monday through Friday during normal daytime working hours for the purpose of storing products and material until they are used or shipped.

This project will not adversely impact traffic flow on W. Melody Drive or N. Pioneer Street with normal delivery and pick up of product from the storage facility. There are important points to take under consideration.

- 1) The authorizing of the application will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or to the public welfare in general because:
 - A) The subject site is at the end of a dead-end road in an industrial park, granting the reduction in setback from the access gate to the right-of-way from 50' to 25' will not cause detrimental harm to anyone working or travelling in the vicinity.
 - B) There is no flow through traffic on either Pioneer Street or Melody Way. Pioneer dead ends just past our property because of train tracks. Melody runs only one city block ending at the McQueen Road T intersection. These are "Local" streets with minimal traffic even at the height of peak traffic hours.
 - C) The variance will not make any changes in the uses permitted in the zoning classification or zoning district or make any changes in the terms of the zoning ordinance except adjustments authorized by ARS § 9-462.06.

- 2) There are special circumstances of the property, including its size, shape, topography, location or surroundings, whereby the strict application of the zoning ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district. Those special circumstances include the following:
 - A) The intent of the provision is to ensure that large vehicles (e.g. semi-trucks, recreational vehicles and vehicles towing trailers) do not impede traffic on the right-of-way while attempting to gain access to a gated yard. The subject site is at the end of a dead-end road with minimal traffic.
 - B) The normal truck deliveries should only be four or five per day. None will impede local traffic nor extend into the right of way while opening the gate.
 - C) Delivery trucks will enter on Melody and all will only exit onto Pioneer and trucks exiting on Pioneer can only turn left toward Melody.
- 3) The variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the zone and vicinity in which such property is located because:
 - A) The United Land Development Code in place at the time of the Industrial Park's development did not regulate the distance between the access point to a gated yard and the right-of-way. Therefore, other properties have access points at the edge of their street front landscape setback at approximately 25'.
- 4) The essential character of the neighborhood will be maintained as an industrial commercial area. These improvements will bring a vibrant vitality to the neighborhood.

**TOWN OF GILBERT
VARIANCE HEARING
MINUTES**

**90 E. Civic Center Drive, Conference Room 100
Gilbert, Arizona**

July 17, 2019 2:30 P.M.

ATTENDANCE:

Brian Johns, Zoning Hearing Officer
Josh Rogers, Planner II
Stephanie Bubenheim, Planner II
Amy Temes, Interim Principal Planner
Recorder Dana Desing

Josh Oehler, Applicant
Brian Frederickson, Property Owner
Ed and Mary Lopez, Property Owners
Dusty Pinckard, Property Owner
Bret Harris, Milling Machinery
Christine Tucker, Applicant
Reed Roberts, Property Owner
Barry Hansen, Applicant
Laura Ortiz, Applicant
Allison Reis, Evergreen Devco, Inc.
Arlin Korner, Business Operator

CALL TO ORDER

Zoning Hearing Officer Brian Johns called the Variance Hearing to order at 2:35 p.m.

PUBLIC HEARING

During the Public Hearing, anyone wishing to comment in support of or in opposition to a Public Hearing item may do so. Once the hearing is closed, there will be no further public comment unless requested by the Zoning Hearing Officer.

- 1. V19-04 MILLING MACHINERY INC: Request for a deviation from the strict application of the Land Development Code requirement set forth in Chapter 1 Zoning Regulations, Division 2 Land Use Designations, Article 2.6 Employment Districts, Section 2.605.A Secure Vehicle Access Points to reduce the distance from a secure vehicle access point from the right-of-way from 50 feet to 25 feet. The subject real property is located at 1469 W. Melody Ave. and is zoned General Industrial (GI).**

Planner Josh Rogers presented V19-04 Milling Machinery, request to deviate from the Land Development Code (LDC) requirement for the distance between a secure vehicle access point or secure gate and the right-of-way. The site is located southeast of McQueen and Baseline Roads. The standard setback distance in the Town Code is 50 feet. The applicant is seeking to reduce that setback from 50' to 25' for two gates on the east side and from 30' to 20' for one gate on the north side. Mr. Rogers pointed out the proposed gate locations compared to the positions as required by code.

FINDINGS OF FACT:

In order to approve a Variance, the Zoning Hearing Officer is required to make four findings per Section 5.503 of the LDC. The findings are listed below, along with the reasons why staff considers that the findings are or are not met in this case.

- A. There are special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, whereby the strict application of the zoning ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district;*

Staff found that special circumstances were not applicable to this site as the site is not constricted by size, shape or surroundings. Staff did not find a reason why the applying the 50' setback would deprive the subject site of privileges enjoyed by similar uses. There are a few properties in the area that have applied the 50' setback with no issues. Most properties in the area have a gate on the property line, although those properties were all developed before the Town update to implement this section of the Code in 2005 and are grandfathered in under the old Code. Staff found no other properties that were developed after the 2005 Code update.

B. Such special circumstances were not created by the owner or applicants;

The required setback is necessary and does not place any restrictions on the property that have not been imposed on other sites in the area. Staff found no reason why this was not a self-imposed hardship.

C. The variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located;

The site design for the property to the east at 1559 W. Melody Avenue was approved in 2006. That property was able to comply with the 50' setback for their secured gates. Staff finds that granting this variance would grant special privileges as there are other properties in the area developed after the Code update that have complied with the 50' setback requirement.

D. The variance will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or the public welfare in general.

The intent of this Code requirement is to prevent large trucks from blocking the right-of-way or impeding traffic while accessing the gate. With the current configuration of the roadway, the Town has the right-of-way available to extend Melody to the east towards Hobson Street. With Melody being cut off, there is minimal impact to traffic going to any of the properties along Pioneer or Melody. As the area contains a significant industrial complex, if Melody were to be extended, it is anticipated to be a heavily traveled road and could have a greater impact on the area in the future. Staff finds that this variance could be materially detrimental to the persons residing or working in the vicinity.

Staff does not feel that applicant meets any of the four Findings of Fact and recommends denial of this Variance request.

STAFF RECOMMENDATION

Deny V19-04 Milling Machinery Inc: Request for a deviation from the strict application of the Land Development Code requirement set forth in Chapter 1 Zoning Regulations, Division 2 Land Use Designations, Article 2.6 Employment Districts, Section 2.605.A Secure Vehicle Access Points to reduce the distance from a secure vehicle access point from the right-of-way from 50 feet to 25 feet, on property located at 1469 W. Melody Ave. and zoned General Industrial (GI).

DISCUSSION

Zoning Hearing Officer (ZHO) Johns asked for clarification that the 50' requirement is due to truck traffic coming off of the main road.

Mr. Rogers stated that is correct. The 50' requirement only applies to a secured gate in order to allow enough room for a truck to pull in to the gate and not hang out into the road impeding traffic while accessing the gate.

ZHO Johns asked if the traffic through the site is one-way, and if so, why would they need the variance at all three gates.

Joshua Oehler, representing the Applicant, stated it would be one-way traffic through the site. It is a steel company and the design of the property is such that smaller items would be up front and larger items would be at the back of the property. The proper movement of materials on the site would require two gates. The traffic flow is always in one direction. He did not agree with staff's findings. The property is designed so that all traffic would enter the site off of Melody. The larger setback of 30' is requested on Melody to accommodate the

size of trucks that normally come to the site so that they would be fully off the right-of-way. The two gates off of Pioneer are requested to be reduced to 25 feet. The right-of-way goes from the property line, which is outside of the asphalt, so technically there would be 10 more feet for a total of 40 feet before reaching any street traffic or extend out into the street. Out of the 30 or 40 properties within this triangle, only one property has this setback, which Mr. Oehler believed was closer to 42' as measured from the County Assessor's aerial photo of the property. That 42' is close to what we would be doing on this property.

Google Earth aerial photos of the site from 2005 on were reviewed showing only one site with a wall, which is less than 18' from the property line. The other properties have fences. As development occurred over the years, there is one property that has gates that are 20' from the property line. Mr. Oehler could not find any permitting for those gates with a 20' setback from when that development was built in 2006, approximately a year after the Code update requiring the 50' setback.

Mr. Rogers stated there are no recorded approvals or reviews for those gates. There is a 50' setback for the gate on the front of that property.

Mr. Oehler clarified that the neighboring property at 1559 is the only one that had a gate that was close to the 50' required setback. The issue on the subject site is the non-usable corners created by this 50' setback requirement, as seen at the 1559 site which has a cargo container in the corner.

There was discussion on the length of the trucks visiting the site, ranging from 40' to full semi-trucks of over 50 feet. ZHO Johns noted if the trucks are longer than 50' it would defeat the purpose.

Mr. Oehler understood that Melody could be extended with the town right-of-way, although it has been in its current configuration for 50 years. It is fully barricaded at this point and there are no plans to extend it. It would be a thoroughfare to these industrial properties. There are no curb cuts. Mr. Oehler stated a CMU block wall would be installed around the subject site with new vegetation to beautify the area. It is currently a dirt lot. It was an active site at one time, although there was never an approved site plan. Any improvements to the site would have to go through the town for approval. There are no buildings on the site. It would basically be a storage yard.

Mr. Rogers stated that use is allowed by right on the site.

ZHO Johns asked if the applicant has met the other requirements.

Mr. Rogers stated it is still in the review process, although so far it does meet all the other requirements.

ZHO Johns asked for any comments from the public.

Bret Harris, General Manager of Milling Machinery, stated the intention is to install an automated gate along Melody so that a driver would not have to step out of the vehicle to open the gate.

Mr. Oehler advised that the entry would be an active electronic gate. The two exit gates would not be electronic but would be opened and closed by an employee on site. The employees load the materials into smaller vehicles and there would never be a truck driver alone on the site.

Mr. Harris stated they would like to prewire to have the option for a weighted system to open and close the gates automatically along Pioneer.

ZHO Johns asked if the main concern with the 50' setback was due to the lost space in the corners of the site.

Mr. Oehler stated that is correct. Due to the materials and how the site is used, those corners would become almost unusable space. The one property mentioned with the same unusable corners ended up placing cargo containers in the corners.

Dusty Pinckard owns the property and the company and noted with the town's restrictions, the only option would be a swing gate, as a rolling gate would not be possible because of the wall. The intent is to fully utilize the property and they plan to make the property look nice with landscaping.

ZHO Johns understood the logic concerning the type of gate, although he would need to look into the ordinance further for details.

Mary Lopez, property owner on Pioneer Street, was concerned about the corner where vehicles turn onto Pioneer. She noted the street sign is continually being knocked down. Pioneer is a busy street with residents and businesses.

Mr. Rogers clarified that this hearing is not for the design of the site, only the variance request. Those types of concerns can be voiced at a separate public hearing for the design of the site.

ZHO Johns asked Mrs. Lopez where her property is located. It was pointed out as the residential property diagonally to the southeast.

Amy Temes, Interim Principal Planner, advised that in the last year, Traffic has approved two exit-only pressure plate actuated gates to a private street.

ZHO Johns asked if there were a 50' setback at the entrance, would they care about the automatic gate.

Mr. Oehler stated by reducing the setback, they felt it would enhance the property.

ZHO Johns asked if the applicant would be agreeable to a stipulation for one-way only on private property.

Mr. Oehler stated they would agree to that stipulation.

Ms. Temes noted that incoming gates being actuated or keypad operated are acceptable. The required setback refers to the exit only out to a busy street where there needed to be a place to pause before entering the street. The applicant is asking to reduce both, where the other property mentioned only reduced the exit only.

ZHO Johns asked if the flow through the site is only one way, why would that matter.

Ms. Temes stated that at any point this property could become something else.

ZHO Johns noted that the variance is per the property, not the applicant or owner. Even if it developed as something else, it would still be stipulated to be one way.

Ms. Temes will do some research in that regard.

Mr. Oehler understood that it would be tied to the property, and if there were stipulations for the variance, it would also have to be in conformance of the site plan. If ownership changed and they brought a different site plan, it would still be tied to those stipulations.

ZHO Johns asked if the applicant would be open to two stipulations to have an automatic or actuated gate and that the flow through the site be one-way. The gate could not be keypad operated as that would block traffic in the street.

Ms. Temes determined that any stipulations would be tied to the design of the site.

Mr. Ed Lopez, property owner, asked who would police the one-way flow, the neighbors?

ZHO Johns understood the concern and advised that if there were complaints from the neighbors, the owner could be fined for not upholding to the stipulations. He agreed that it probably would be policed by the neighbors. He asked if the neighbors had any comments on the setbacks.

Mr. Lopez stated the property just to the south of the subject site has a 50' setback along Pioneer. They have large vehicles coming in and out and almost take out the mailbox. Pioneer is a very narrow street and you can barely fit a semi and a car together on that road. You don't want to use Melody as an entrance as it would be difficult for a semi to make the turn.

Mr. Oehler stated on Pioneer it would be very hard for trucks to go the opposite direction. For the other site with the 50' setback at the gate, the trucks start making the turn well before the gate. The subject site will still have a 25' setback with a vision triangle or vegetation.

ZHO Johns understood the vision setback, although the point of the 50' setback is to get the vehicles off of the right-of-way so they don't impede traffic.

Mr. Oehler stated they technically have 40' before the street and they would have an actuator to open the gate which would get the truck out of the street.

Mr. Pinckard stated they would use clickers for the gates. He advised that once the gate was opened in the morning, it would likely remain open during business hours until the end of the day.

It was asked why the site needed two exit gates.

Mr. Oehler stated the intent is to limit the amount of backing up on the site.

Mr. Harris stated they would be duplicating the gate size at their Mesa facility where there is a lot more traffic as well as cars parked along the street.

Mr. Pinckard stated they have two exits because if a semi pulled in and faced the exit while unloading, there would be another means of exit for someone else to get out of the site, rather than turning around and going out the entrance.

ZHO Johns asked that the discussion be brought back to the variance and not operations. He asked the applicant what the hardship was with the required setback. He understood not wanting to block off the corner sections of the site, although the road blocks off the corner sections anyway.

Mr. Oehler stated the hardship is being able to use the site as much as everyone else in this triangle in terms of being able to use the corners. The same issue occurs at the entrance as well as the exits with 50' bump-ins, which make it difficult to be able to maneuver vehicles to access all of the products.

ZHO Johns will look into the ordinance for further details regarding the required setback. He has a week and a half to make a determination regarding the variance request. He confirmed that the applicant was open to the stipulations for one-way flow through the site as well as the actuated gate.

2. V19-05 PHO SQUEEGEE: Request for a deviation from the strict application of the Land Development Code requirement set forth in Chapter 1 Zoning Regulations, Division 4 General Regulations, Article 4.7 Wireless Communication Facilities, Section 4.704.B Setbacks, WCF Support Structure to reduce the required setback distance from a parcel designated for residential use in the General Plan from 75 feet to 20 feet to allow the placement of a new wireless communications tower. The subject real property is located at the northeast corner of Greenfield and Chandler Heights Road and is zoned Single Family-7 (SF-7) and Neighborhood Commercial (NC).

Planner Josh Rogers presented V19-05 Pho Squeegee, regarding a wireless communication facility. The required setback distance for cellular towers from any residentially designated land use is 75' or 110' for a taller structure. The applicant is seeking a deviation from the required 75' setback to 29' from a residential land use. He clarified that it referred to the General Plan land use and not the zoning. The subject site is located generally on the northeast corner of Greenfield and Chandler Heights Roads at the southern tip of the future Regional Park. The site is currently developed with phase 1 of a church. To the north is a town reservoir which is located in a residentially zoned and General Planned residential area, although the site is not being used as such. Town facilities are allowed by right in residential zoning and General Plan land use areas. The applicant is seeking to place a wireless communications tower along the northern boundary of the site adjacent to the town's well site. The placement of the tower and equipment was shown on a site plan, 29' south of the northern property line.

FINDINGS OF FACT:

In order to approve a Variance, the Zoning Hearing Officer is required to make four findings per Section 5.503 of the LDC. The findings are listed below, along with the reasons why staff considers that the findings are or are not met in this case.